

Support the Bipartisan Approach to Regulating Coal Ash

Vote “Yes” on H.R. 1734, the Improving Coal Combustion Residuals Regulation Act of 2015

On December 19, 2014, the Environmental Protection Agency (EPA) finalized a rule to establish federal requirements for the disposal of coal ash under Subtitle D of the Resource Conservation and Recovery Act (RCRA). The decision to regulate coal ash as non-hazardous is consistent with decades of research and analysis by EPA. But, while EPA’s decision to regulate coal ash as a non-hazardous waste was widely supported by the states and stakeholders, the final rule did not provide closure on a number of issues.

First, the final rule left open the possibility of EPA regulating coal ash as a hazardous waste, which is causing uncertainty for the 316,000 hardworking Americans reliant on the coal ash recycling industry. Furthermore, because EPA lacks authority to implement the new federal requirements through state permit programs, the rule is self-implementing and there will be no regulatory oversight by States or EPA. Enforcement occurs solely through citizen lawsuits by the state or third-party groups. This will open up businesses to great uncertainty and expensive legal fees, which would lead to lost jobs.

The bill would strengthen the final rule by:

- Allowing the states to establish CCR permit programs that directly incorporate the technical requirements in the final rule;
- Ensuring that states implement regulatory requirements that are at least as stringent as the minimum requirements in the bill;
- Providing EPA with the authority to review state programs at any time and to take back a permit program that isn’t meeting the minimum requirements;
- Authorizing EPA to implement a permit program where a state chooses not to or where a state has failed to implement the requirements adequately;
- Restoring RCRA’s customary flexibility for states to tailor the minimum federal requirements on a site-specific basis; and
- Addressing the uncertainty created by EPA’s preamble language suggesting that, in the future, it may regulate CCR as a hazardous waste under Subtitle C.